

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	) CASE NO.: 1:18CR708
	)
Plaintiff,	) JUDGE CHRISTOPHER A. BOYKO
	)
	)
v.	)
	)
KENNETH TYSON,	) <u>GOVERNMENT'S NOTICE OF</u>
	) <u>COMPLIANCE WITH ORDER</u>
Defendant.	) <u>REGARDING MOTION TO COMPEL</u>
	) <u>(DOC. # 89)</u>

The United States of America, by and through the undersigned counsel, hereby files this Notice of Compliance with the Court’s Order regarding Defendant’s motion to compel production (Doc. #89). The government certifies its compliance with the Court’s Order, as discussed below.

The Court ordered the government to produce certain materials to Defendant Kenneth Tyson (“Tyson”) by January 24, 2020. Specifically, the Court ordered the government to produce documents in five categories. To the extent that the information was (1) within the possession of the Prosecution Team and (2) within the relevant time period, the government provided Tyson with these materials on January 24, 2020, subject to this Court’s Protective Order governing discovery.

**I. The financial and tax information related to M.R. and his businesses during the relevant time.<sup>1</sup>**

The government provided copies of the financial and tax materials listed on Attachment

A. The IRS cannot disclose tax information without a court order. Typically, tax returns are disclosed under an *ex parte* order, pursuant to 26 U.S.C. §6103(i)(1). In this case, the government is interpreting the Court's order (Doc. 89) as a sufficient order that allows the IRS to disclose the tax information of M.R. and his related entities. Thus, the government has provided a document related to M.R.'s taxes. The government believes that Tyson is also in search of tax documents for M.R.'s "related entities," including RCI Services and other businesses. These entities are not registered in the name of M.R. For example, as set forth in paragraph 16 of the indictment, L.A. was the registered agent for RCI Services. Thus, without a court order directing the disclosure of the L.A. or RCI Services' tax information, the IRS cannot disclose such information. However, to the extent the government has obtained such tax information from non-IRS entities (i.e., private individuals), the government is producing them pursuant to this Court's order.

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<sup>1</sup> For purposes of these financial documents the government defined the relevant time period as July 2013 through September 2014, because the Court's order states that these materials are necessary to "understand the flow of payments – whether to third party contractors or from Defendant to M.R." (Doc. 89, PageID 954). Based on the allegations in the indictment, there are no grounds to believe that such payments were made outside of this timeframe. The last overt act alleged in Count 1 of the indictment occurred on or about July 2, 2014. Counts 2, 3, and 4 allege wires that occurred on or about November 26, 2013, December 5, 2013, and December 11, 2013. Count 5 alleges that the conduct occurred from in or around October 2013, through in or around July 2014.

**II. SIGTARP audit files that reflect the amount of TARP funds that the Land Bank received for the relevant time period.**

Pursuant to the Court's clarification (Doc. 96), the government has provided any documents from the SIGTARP audit file reflecting the amount of TARP funds that the Land Bank received during the relevant time period.<sup>2</sup> In order to timely comply with this Court's order, the government is producing all responsive documents in SIGTARP's audit file relating to the TARP funds. However, the government is not waiving any potential privilege that SIGTARP may have with respect to these materials. To the extent that Tyson intends to use these materials at trial, the government reserves the right for SIGTARP to raise a privilege objection at that time.

**III. Audit files related to non-TARP funds paid to the Land Bank.**

The government submits that the prosecution team is not in possession of any audit files related to non-TARP funds paid to the Land Bank.

**IV. All Land Bank budget documents, accounting books, interim and annual financial reports, policy and training documents, and internal-control procedures of the Land Bank; and**

The government submits that the Prosecution Team does not believe it has materials responsive to this request.

**V. Cell phone analysis related to paragraph 14 of the search warrant affidavit (provide to the Court *in camera*).**

The government reiterates its arguments set forth in its response to Tyson's motion that the cell phone analysis is not a scientific test or experiment, but rather work product of a government agent. However, because the government anticipates using portions of this analysis as a demonstrative exhibit at trial, the government has produced to Tyson a redacted version of

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<sup>2</sup> This time period is 2014 through 2017. This period includes all payments made from the Land Bank to RCI Services.

this analysis, as well as the underlying documents. Pursuant to the Court's order, the government will also provide an un-redacted version of the analysis *in camera*.

Respectfully submitted,

JUSTIN E. HERDMAN  
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on this 24<sup>th</sup> day of January 2020 a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Chelsea S. Rice

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Chelsea S. Rice  
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